

EXHIBIT

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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----
5 TRAVELERS CASUALTY AND SURETY COMPANY as
6 Administrator for RELIANCE INSURANCE
7 COMPANY,

8 Plaintiff,

9 -against-

10 DORMITORY AUTHORITY-STATE OF NEW YORK, TDX
11 CONSTRUCTION CORP. and KOHN PEDERSEN FOX
12 ASSOCIATES, P.C.,

13 Defendants.

14 Case No. 08-CV-6915 (DLC)

15 (CAPTION CONTINUED)

16 -----
17 July 8, 2008

18 10:06 a.m.

19 DEPOSITION of NICHOLAS
20 D'AMBROSIO, taken by Plaintiff, pursuant
21 to Notice, held at the offices of
22 HOLLAND & KNIGHT LLP, 195 Broadway, New
23 York, New York before Wayne Hock, a Notary
24 Public of the State of New York.
25

N. D'Ambrosio

Q. And what is the job description of a chief project manager?

A. It's to manage multiple projects. It's a program manager on multiple projects that I manage and oversee.

Q. So it's more than one project?

A. Correct.

Q. Are there a set number of projects that you manage?

A. No.

Q. And are there other chief project managers?

A. Yes.

Q. How many chief project managers are there?

A. I don't know.

Q. Did you hold that title throughout the duration of the Baruch project?

A. No.

Q. When was your first involvement with Baruch?

A. From the beginning.

1 N. D'Ambrosio

2 Q. And when you say, "from the
3 beginning," does that include prior to the
4 design phase?

5 A. Yes.

6 Q. So before KPF is brought
7 onboard?

8 A. I don't understand that
9 question.

10 Q. From the beginning of the
11 project meaning the conceptual beginning
12 of the project with CUNY approaching DASNY
13 to work in connection with it?

14 A. I wasn't involved with that.

15 Q. What was your job title at the
16 beginning of the Baruch project?

17 A. Senior project manager.

18 Q. And as senior project manager,
19 what were your responsibilities?

20 A. It was the same as the program
21 manager.

22 Q. And specifically in connection
23 with Baruch, what were you vested with the
24 responsibility for doing?

25 A. To manage the process to build

1 N. D'Ambrosio

2 Q. Was there any point in time
3 where you were working exclusively on
4 Baruch?

5 A. Yes.

6 Q. When was that?

7 A. Probably -- I don't remember,
8 but it's probably when construction
9 started, maybe before that. The other
10 jobs were phasing out so just if you want
11 a date, I don't know what that date is.

12 Q. When the other projects had
13 phased out and you were working on Baruch,
14 did there come a point in time when you
15 were also managing other projects as well
16 as Baruch?

17 A. No.

18 Q. And is there a point in time
19 when you were no longer working on the
20 Baruch project?

21 A. Yes.

22 Q. When is that?

23 A. When we turned the building over
24 to the client.

25 Q. Was that in 2002?

1 N. D'Ambrosio

2 A. I believe it was 2001.

3 Q. At that point in time, Mr.
4 D'Ambrosio, what was your next project
5 that you went to?

6 A. That's when I got promoted to
7 chief and I went into the hospital
8 program.

9 Q. After the building was turned
10 over, did you have any further involvement
11 in the Baruch project?

12 A. None whatsoever.

13 Q. And that would include even
14 meetings with DASNY to discuss the floor?

15 A. Correct.

16 Q. Prior to your administrative
17 responsibilities, did you ever perform
18 actual construction work in the field?

19 A. No.

20 Q. With respect to the terrazzo and
21 the flooring aspects of the Baruch
22 project, did you have any responsibilities
23 that were particular to that?

24 A. I'm not sure what that -- the
25 question is.

1 N. D'Ambrosio

2 of its contractual obligations to assist
3 with monitoring KPF's contractual
4 obligations?

5 A. Not to my knowledge.

6 Q. And I don't want to
7 mischaracterize what you said, Mr.
8 D'Ambrosio, so just to clarify it, to your
9 knowledge, during the time frame that you
10 were affiliated with the project, you were
11 not aware of any flooring problems?

12 A. Correct.

13 Q. To the best of your knowledge,
14 when did KPF first become aware that the
15 floor slabs were out of tolerance, the
16 concrete slabs?

17 A. I would guess after they were
18 poured. That makes sense.

19 Q. And do you know who provided
20 that information to KPF?

21 A. That probably would have been
22 our CM.

23 Q. Did you have any -- in
24 connection with Trataros, did you have any
25 interactions with Trataros' subcontractors

1 N. D'Ambrosio

2 in connection with the flooring aspects of
3 the project?

4 MR. SHAPIRO: I'm going to -- I
5 just want to clarify here.

6 When you're talking about
7 flooring problems, I think Mr.
8 D'Ambrosio was thinking terrazzo
9 flooring problems. If you have a
10 different understanding --

11 Q. I understood you to mean -- just
12 so we both have the same understanding,
13 during the project time frame, you're not
14 aware of any terrazzo issues or terrazzo
15 problems; is that accurate?

16 A. Correct.

17 Q. During your involvement with the
18 project, did you have any interactions
19 with Trataros' subcontractors in
20 connection with the flooring portions of
21 the project?

22 A. No.

23 Q. And that would include GM
24 Crocetti?

25 A. Correct.

1 N. D'Ambrosio

2 A. When I left, I was the chief.

3 Q. In connection with the Baruch
4 project, you were the project manager?

5 A. Correct.

6 Q. And you had that job until what,
7 August, September of '01; is that correct?

8 A. Yeah, somewhere around that.

9 Q. And you had been the project
10 manager for Baruch continuously up to that
11 point from at least when construction work
12 started?

13 A. Yes.

14 Q. Construction work included the
15 work that was done before the Trataros
16 contract?

17 A. Yes.

18 Q. Could you briefly give us a
19 brief rundown of exactly the type of
20 activities that you would do as part of
21 your job as construction manager for
22 Baruch.

23 A. Okay.

24 In hopefully a few words or
25 less, but it's basically the overall

1 N. D'Ambrosio

2 Q. You mentioned McCullough.

3 McCullough is a TDX guy; is that
4 correct?

5 A. McCullough is a construction
6 manager for TDX, yes.

7 Q. When you left the Baruch project
8 in September of '01, how far along was the
9 project at that point?

10 A. The job was occupied.

11 Q. The flooring was in, the
12 finished flooring?

13 A. Yes.

14 Q. What did it look like?

15 A. It looked great.

16 Q. As far as you know when you
17 left, there were no complaints about the
18 finished flooring?

19 A. That is correct.

20 Q. And you, yourself, never
21 observed any terrazzo that looked bad to
22 you as of the time you left?

23 A. No, I did not.

24 Q. What is this camber that we
25 heard about?

N. D'Ambrosio

-- I can't remember that far -- that date.
I can't.

Q. So you have no recollection?

A. No.

Q. To your knowledge, did there
come a time when, on behalf of DASNY or
TDX, that Trataros was placed on notice
that it would be held responsible for
problems associated with the terrazzo
flooring?

A. Not to my knowledge.

MR. SIMON: I've not nothing
further.

MR. HALL: I have just a couple
of quick questions.

EXAMINATION BY

MR. HALL:

Q. Mr. D'Ambrosio, my name is Mark
Hall. I represent Ohio Casualty Insurance
Company.

In the late winter/spring of
2001, you were the project manager on this
job?

A. Late?

1 N. D'Ambrosio

2 Q. Late winter/spring of 2001,
3 February, March, April.

4 A. Yes.

5 Q. In that capacity, would you have
6 expected to receive reports of the
7 terrazzo flooring delaminating?

8 MR. SHAPIRO: Objection.

9 You can answer.

10 A. Would I have -- if it was, yes.

11 Q. Would you have expected to
12 receive reports that the terrazzo had
13 failed to the point where it had to be
14 removed and replaced?

15 MR. ZICHELLO: Objection to form.

16 Q. You can answer the question.

17 MR. SHAPIRO: Yes.

18 A. Yes.

19 Q. Do you have any personal
20 recollection of receiving any reports in
21 that time frame about the terrazzo
22 failing?

23 A. No.

24 Q. Earlier you indicated that,
25 prior to working for DASNY, you spent

CERTIFICATION BY REPORTER

I, Wayne Hock, a Notary Public of the State of New York, do hereby certify:

That the testimony in the within proceeding was held before me at the aforesaid time and place;

That said witness was duly sworn before the commencement of the testimony, and that the testimony was taken stenographically by me, then transcribed under my supervision, and that the within transcript is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, that I am not interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this ^{11th} day of July, 2008.

Wayne Hock